

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

HEATHER JEANNE LINDSAY,

Appellant,

-v-

KRISTA M. PREUSS,

Appellee.

21 Civ. 11006 (PAE) (KHP)

OPINION & ORDER

PAUL A. ENGELMAYER, District Judge:

Appellant Heather Jeanne Lindsay (“Lindsay”), proceeding *pro se*, appeals various orders of the Bankruptcy Court for the Southern District of New York. *See* Dkts. 1 (notice of appeal), 3 (record of appeal), 18 (appellant’s brief). Appellee Krista M. Preuss (“Preuss”) moves to dismiss the appeal as frivolous. *See* Dkt. 22. Lindsay opposes dismissal.¹ *See* Dkt. 25.

On April 25, 2023, the Honorable Katharine H. Parker, United States Magistrate Judge, to whom this Court referred the case for general pretrial supervision, issued a Report and Recommendation, recommending that the Court dismiss the appeal for lack of jurisdiction or, in the alternative, deny the appeal as meritless. *See* Dkt. 28 (the “Report”). No parties filed objections. The Court incorporates by reference the summary of the facts provided in the Report. For the following reasons, the Court adopts the Report.

DISCUSSION

¹ On March 9, 2023, Judge Parker held a conference, at which the parties stated that they would not file further submissions as to the appeal and motion to dismiss. *See* Dkt. 26; Report at 6.

In reviewing a Report and Recommendation, a district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). When specific objections are timely made, “[t]he district judge must determine *de novo* any part of the magistrate judge’s disposition that has been properly objected to.” Fed. R. Civ. P. 72(b)(3); *see also United States v. Male Juvenile*, 121 F.3d 34, 38 (2d Cir. 1997). “To accept those portions of the report to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record.” *Ruiz v. Citibank, N.A.*, No. 10 Civ. 5950 (KPF) (RLE), 2014 WL 4635575, at *2 (S.D.N.Y. Aug. 19, 2014) (quoting *King v. Greiner*, No. 02 Civ. 5810 (DLC), 2009 WL 2001439, at *4 (S.D.N.Y. July 8, 2009)); *see also, e.g., Wilds v. United Parcel Serv.*, 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003).

If a party objecting to a Report and Recommendation makes only conclusory or general objections, or simply reiterates its original arguments, the Court will review the Report strictly for clear error. *See Dickerson v. Conway*, No. 08 Civ. 8024 (PAE), 2013 WL 3199094, at *1 (S.D.N.Y. June 25, 2013); *Kozlowski v. Hulihan*, Nos. 09 Civ. 7583, 10 Civ. 0812 (RJH) (GWG), 2012 WL 383667, at *3 (S.D.N.Y. Feb. 7, 2012). This is so even in the case of a *pro se* plaintiff. *Telfair v. Le Pain Quotidien U.S.*, No. 16 Civ. 5424 (PAE), 2017 WL 1405754, at *1 (S.D.N.Y. Apr. 18, 2017) (citing *Molefe v. KLM Royal Dutch Airlines*, 602 F. Supp. 2d 485, 487 (S.D.N.Y. 2009)).

As no party has submitted objections to the Report, review for clear error is appropriate. Careful review of Judge Parker’s well-reasoned Report reveals no facial error in its conclusions. The Report is therefore adopted in its entirety. Because the Report explicitly states that Lindsay and Preuss had 17 days and 14 days, respectively, to file written objections and that the failure to

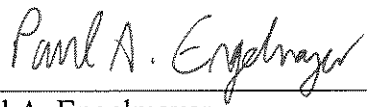
file timely objections “will result in a waiver of those objections for purposes of appeal,” Report at 16, the parties’ failure to object operates as a waiver of appellate review. *See Caidor v. Onondaga County*, 517 F.3d 601, 604 (2d Cir. 2008) (citing *Small v. Sec’y of Health & Human Servs.*, 892 F.2d 15, 16 (2d Cir. 1989) (per curiam)).

CONCLUSION

For the foregoing reasons, the Court accepts and adopts Judge Parker’s April 25, 2023 Report and Recommendation in its entirety and grants the motion to dismiss.

The Court respectfully directs the Clerk of the Court to terminate the motion at docket number 22, close this case, and mail a copy of this order to Lindsay at the address on file.

SO ORDERED.



Paul A. Engelmayer
United States District Judge

Dated: June 14, 2023
New York, New York